

2. Attached hereto as Exhibit 1 are true and correct copies of pages 17, 18, and 19 of the transcript of the July 30, 2007 deposition of Counselor Tom Babauta, at which he testified that he began counseling Plaintiff-Intervenor Jennifer Holbrook in April of 2006. At his re-noticed deposition on October 22, 2007, taken pursuant to the authority of the court's order of September 14, 2007, Counselor Babauta testified that he treated Ms. Holbrook "16 or 17 times" in April of 2006. He said she was suffering from "confusion", that she was having "relationship issues" and that she was experiencing "employment stress". He said he made handwritten notes during his sessions with Ms. Holbrook.

3. On September 14, 2007, the court ordered Counselor Babauta to produce all medical records related to his treatment of Ms. Holbrook. He purported to comply with the Court's order on September 20, 2007. Attached hereto as Exhibit 2 is a true and correct copy of a cover letter signed by Counselor Babauta which purported to include all records ordered by the Court to be produced on September 14, 2007.

4. At Counselor Babauta's re-noticed deposition on October 22, 2007, he admitted that contrary to the Court's order, he had not produced any handwritten records related to his treatment of Ms. Holbrook along with his cover letter of September 20, 2007, or any other time.

Under penalty of perjury I declare that the foregoing is true and correct.

Executed this 22nd day of October, 2007 in Tamuning, Guam.



TIM ROBERTS

IN THE DISTRICT COURT OF GUAM

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

vs.

LEO PALACE RESORT,

Defendant.

JENNIFER HOLBROOK,
VIVIENE VILLANUEVA and
ROSEMARIE TAIMANGLO,

Plaintiff-Intervenors,

vs.

MDI GUAM CORPORATION dba LEO
PALACE RESORT MANENGGON HILLS
and DOES 1 through 10,

Defendants.

CASE NO. 1:06-CV-00028

 COPY

DEPOSITION OF TOM BABAUTA

Taken on Behalf of the Defendant

BE IT REMEMBERED That, pursuant to
the Guam Rules of Civil Procedure, the deposition of
Tom Babauta was taken before Veronica F. Reilly, Certified
Shorthand Reporter, on Monday, the 30th day of July 2007, at
3:30 p.m. in the Law Offices of Dooley Roberts & Fowler, 865
South Marine Corps Drive, Suite 201, Orlean Pacific Plaza,
Tamuning, Guam.

Veronica F. Reilly, CSR-RPR
Certified Shorthand Reporter
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EXHIBIT 1

1 difficulty with -- she felt like there were a lot of things
2 in her environment and her life that were unstable and she --
3 from professional kind of decisions to personal decisions and
4 she felt just really confused, depressed and anxious.

5 Q. How long had it been since Jennifer had been treated
6 by Dr. Perez before she first saw you on, I guess, April 8,
7 2006?

8 A. I'm not sure. Dr. Perez has her own records. Even
9 though we share the same office, we don't share the same
10 medical record. So I mean, that's how confidential things
11 are. So even if Jennifer wanted me to get information from
12 Dr. Perez, she would have to have me -- a release of
13 information.

14 So when Jennifer requested to work with me just as
15 kind of a little bit of a change, I'm not exactly sure when
16 the last time she saw Dr. Perez was, but I started working
17 with her on April 8 and I haven't seen Perez's -- or
18 Dr. Iyechad's treatment summary. So I don't know when her --
19 the last time she saw her.

20 Q. I do have her treatment summary. It's attached to
21 Exhibit 5. And the second page, she wrote, she was seen for
22 five sessions between the months of August 2004 and April
23 2005.

24 A. Okay. So I saw her a year later.

25 Q. And what was the source of all her confusion and

1 other symptoms that she presented with when she first came to
2 see you in April of 2006?

3 A. Well, she felt like after the incident up at Leo
4 Palace and after everything kind of crumbling around her,
5 that that was the starting point. So again, I didn't start
6 working with her until April 2006. But that's her
7 perception, that at that point, things just started to kind
8 of deteriorate in different areas of her life and she was
9 just having trouble with anxiety and depression and second
10 guessing her decisions. So many times she would make a
11 decision and then -- on a major life event and then feel like
12 no, I made the wrong choice. So she was flip-flopping back
13 and forth and that was the reason she decided to come in and
14 see me.

15 Q. Was she having relationship problems?

16 A. Yes, sir.

17 Q. With whom?

18 A. With -- I don't have his name here, but she has -- I
19 don't know she's still with the gentleman but I believe his
20 name is...Eddie Pelkey.

21 Q. She mentioned his name in her deposition. It's
22 Eddie Pelkey. And do you remember what her problem was with
23 Eddie Pelkey when you were seeing her?

24 A. Basically -- Let me just make sure that's in the
25 scope here, because -- (Witness read document.)

1 Q. It's not mentioned in your summary report, just in
2 case that helps you any.

3 A. Yeah, I'm just kind of concerned because she did
4 revoke regarding her other areas and she wanted it to be
5 specific to the case.

6 Q. I know, I'll be fair. I need to get you on the
7 record saying I will or I won't answer those questions.

8 A. For the record, I won't answer the questions related
9 to the relationship issues other than pointing to the fact
10 that she believed that a lot of the relationship issues
11 stemmed from the stress that she had undergone.

12 Q. Okay. Your testimony is you're only willing to
13 testify about the matters discussed in your treatment summary
14 dated March 19?

15 A. Yes.

16 Q. And that's because you have an understanding that
17 Ms. Holbrook has not authorized you to talk about anything
18 else that might be going on in her life, right?

19 A. Yes.

20 Q. Did you get that through Lilli Perez?

21 A. Yes.

22 Q. But you didn't speak with Ms. Holbrook herself?

23 A. No, sir.

24 Q. In general, when you are taking notes in sessions
25 with a client, these notes, do they help you make a diagnosis



August 31, 2007

Licensed Individual
Marriage & Family Therapists
Play Therapists

Dooley Roberts & Fowler LLP
Suit 201, Orlean Pacific Plaza
865 South Marine corps Drive
Tamuning, Guam 96913

Lilli Perez Iyechad
PhD, RPT-S

Attn: Tim Roberts, Esq.

Lisa Linda Natividad
LCSW, QCSW

Subject: Acknowledgement of Receipt of Records
Holbrook, Jennifer
Taimanglo, Rosemarie
Villanueva, Vivienne

Tom V.C. Babauta
MSW, QCSW

Request for Disposal of Confidential Records
District Court of Guam Case No. 1:06-CV-00028

Tricia A. Lizama
MSW, QCSW

Greetings Attorney Roberts,

The accompanying records are provided to you in response to the order to produce documents relative to emotional distress. Please note that I had conversed with Attorney Phil Torres on the matter of the records and he assured me that you and he would facilitate the proper disposal of the records. Such copies should be shredded to ensure confidentiality.

Attorney Torres further noted that copies of the records would be made in the event that an 'expert' will review the records for a secondary analysis. I remind you that the records were written for us, as therapists the content of which should not be taken out of context.

I wish to reiterate that the females involved feel that the personal information contained in these files goes beyond the interest of this case. I trust that you will honor the belief of confidentiality in the therapeutic relationship as it parallels in part, the confidential nature of the relationship between an attorney and his clientele.

Sincerely,


Lilli Perez Iyechad, PhD


Tom VC Babauta, MSW

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9:50 PM
DOOLEY ROBERTS & FOWLER LLP

EXHIBIT 2